

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

RULE ADDITIONS, AMENDMENTS)	Administrative Cause
AND DELETIONS CONCERNING)	Number 14-121L
EVENTS ON PUBLIC WATER)	
)	LSA Document #14-515

**REPORT ON RULE PROCESSING, PUBLIC HEARING AND HEARING OFFICER
ANALYSIS WITH RECOMMENDATION REGARDING FINAL ADOPTION**

1. RULE PROCESSING

Principally for consideration is a proposal to add 312 IAC 5-3.5 to govern organized boating activities and fishing tournaments on designated public waters and to amend 312 IAC 5-5-3 governing litter and other waste disposal from a boat. In addition, 312 IAC 5-3-2 includes a technical amendment. The addition of 312 IAC 5-3.5 effects a recodification of 312 IAC 2-4, with minor section reference alignments, which is also repealed by this rule proposal. The proposal also adds 312 IAC 5-2-12.5 and 312 IAC 5-2-18.5 to define “fishing tournament” and “major organized boat activity”. These definitions currently exist in 312 IAC 2-4-2 but are being moved to Article 5 where they will have applicability to both 312 IAC 5-3 and 312 IAC 5-3.5.

The original proposal was previously preliminarily approved by the Natural Resources Commission (“*Commission*”) in 2012 as Administrative Cause number 12-137L. The proposal was withdrawn and the withdrawal notice was posted to the Indiana Register on March 12, 2014, by the Department to allow re-adoption of the boating rules.

Executive Order 13-03 requires agencies to “suspend rulemaking action on any proposed rules for which a notice of intent to adopt a rule...was not submitted to the office of the INDIANA REGISTER on or before January 14, 2013.” Additional compliance provisions were included in Financial Management Circular 2013-01. Joseph Hoage, General Counsel for the Department, submitted to the Office of Management and Budget (“*OMB*”) a request for an exception to the suspension of rulemaking action under the provisions of Executive Order 13-03 on June 25,

2014. In a letter dated August 18, 2014, Christopher D. Atkins, Director, OMB, wrote that the Department's "request qualifies for an exception under Section 6(g) of Executive Order 13-03. Therefore, DNR may proceed with the rule as proposed in its June 25, 2014 submission."

The proposed rule was granted preliminary adoption by the Commission on September 16, 2014. Pertinent portions of the September minutes follow:

Lt. Col. Steve Hunter presented this item. Hunter stated that the Division of Law Enforcement discovered that permitting of events on public waters was not always being exercised uniformly across the district offices. He explained that this situation existed predominantly with respect to events such as fireworks displays, triathlons, and other events that do not involve the use of boats. The effort to address this situation first involved the thought of duplicating a definition existing within the fishing tournament rule at 312 IAC 2 into 312 IAC 5 making the definition equally applicable to the recreational event situation. Through further consideration Sandra Jensen suggested, and the Law Enforcement Division agrees, that the fishing tournament rule found in 312 IAC 2 should be moved and incorporated into 312 IAC 5. Hunter observed that this proposal is essentially a technical change that does not create any new regulation. Hunter noted that this is "repeat business" for the Commission explaining that this rule was preliminarily adopted in the past, but needed to be withdrawn. Cameron Clark moved to approve preliminary adoption of amendments to 312 IAC 5 governing organized events on Indiana's public waters. Phil French seconded the motion. Upon a voice vote, the motion carried.

The "Notice of Intent" to adopt the proposed rule amendment was posted to the INDIANA REGISTER database website as 20141231-IR-312140515NIA on December 31, 2014 (LSA Document #14-515). The notice identified Steve Hunter, Lieutenant Colonel, of the Department of Natural Resources Division of Law Enforcement as the "Small Business Regulatory Coordinator" for purposes of Indiana Code § 4-22-2-28.1.

The Commission caused the information required by I.C. 4-22-2-22.5 to be included within the rulemaking docket maintained on its Internet website. The rulemaking docket has been updated throughout the rule adoption process.

Following the posting of the Notice of Intent on December 31, 2014, fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the

posted Notice of Intent, to the Office of Management and Budget on January 7, 2015, as specified by Executive Order 2-89, IC 4-22-2-19.5 and Budget Agency Financial Management Circular 2010-4. The material was also submitted to George Angelone, Counsel for the Legislative Council, on January 7, 2015. In a letter dated March 24, 2015, Brian E. Bailey, Director, Office of Management and Budget, recommended that the proposed rule changes be approved. The correspondence also states, “Furthermore, the statement and analysis (attached hereto) provided by the Indiana Department of Natural Resources is hereby adopted as the Office of Management and Budget’s own Fiscal Impact Statement for the purposes of satisfying the requirements under IC 4-22-2-28(d). Also, it is adopted as the Office of Management and Budget’s cost benefit analysis under IC 4-3-22-13(a).”

The Commission’s Division of Hearings submitted the proposed rule to the Legislative Services Agency (“LSA”) along with the “Statement Concerning Rules Affecting Small Business” (also known as the “Economic Impact Statement”) on April 15, 2015. The Notice of Public Hearing was submitted to LSA on April 16, 2015. The Notice of Public Hearing was posted to the INDIANA REGISTER database website on April 29, 2015 (20150429-IR-312140515PHA) along with the Economic Impact Statement ([20150429-IR-312140515EIA](#)) and the text of the proposed rule ([20150429-IR-312140515PRA](#)). Following receipt of an “Authorization to Proceed” from LSA on April 16, 2015, the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, which publishes a newspaper of general circulation in Marion County, Indiana, on May 4, 2015. In addition, notice of the public hearing and a summary of the proposed rule changes were published on the Commission’s web-based rule docket.

The Statement Concerning Rules Affecting Small Businesses (the “EIS”), as required under IC 4-22-2.1-5, and submitted by the Small Business Regulatory Coordinator, states:

Economic Impact Statement
LSA Document #14-515

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to this Rule:

There are fourteen (six race organizers, three fireworks companies, two marinas, two restaurants, and one recreational park).

Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur for Compliance:

\$15 per year, for an estimated labor expenditure of one hour.

Estimated Total Annual Economic Impact on Small Businesses to Comply:

\$75 per year to publish public notice with required proof of publication for recreational events held on public waters.

Justification Statement of Requirement or Cost:

This permit is required to ensure equitable and safe use of state waters by all user groups. When a group requires exclusive use of all or part of a public waterway, already existing rules require that an application be submitted, evaluated, and either be approved or denied on its merits by the Department. The public notice requirement ensures the general public an opportunity to weigh-in either in favor of or in opposition to a given permit application. The application and, upon approval, the final permit are issued at no cost to the applicant. Public notice via public newspaper is an accepted, legal, economical, and lone alternative for making notice at this time. The proposed rule does not create any new costs or requirements on the applicants, as those requirements currently exist and the proposed rule is an effort to streamline existing regulations.

Regulatory Flexibility Analysis of Alternative Methods:

Other alternatives are not available at this time.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing

A public hearing was conducted at the offices of the Natural Resources Commission, at the Indiana Government Center North, Indianapolis, Indiana on June 2, 2015, as scheduled.

Dawn Wilson served as the hearing officer. The Department's Division of Law Enforcement was present by Lt. Colonel Steve Hunter, accompanied by Lt. Larry Morrison. Copies of the proposed rule amendment were available for members of the public but no other individuals were in attendance.

b) Comments Received Outside Public Hearing

An opportunity was provided for members of the public to submit written comments from approximately December 31, 2014, until the comment period closed at midnight on June 2, 2015. Written comments were received through the Commission's online comment form. One additional comment received in 2014 after the Commission's initial grant of preliminary adoption in 2012, before that proposal was withdrawn and the withdrawal posted in the Indiana

Register on March 12, 2014, is also being included in this report for completeness. The comments have been reproduced in this report as follows:

Commenter Name steve bullard

City shelbyville **County** SHELBY **State** indiana

Comments would like to see the number of boats for fishing tournaments without permit go to 20. lot of clubs may need a lee way of a few boats.

Comment Received 1/19/2015 7:36:02 PM

Commenter Name Matt hoffer

City Hamlet **County** STARKE **State** In

Comments Seems like it will make it a lot harder to operate a bass tournament the guys that run them already have a full plate with working full time jobs and trying to organize the event. A lot of these tourneys raise money for charity also I feel like this will drastically decline the amount of events held annually

Comment Received 4/29/2015 12:55:19 AM

Commenter Name Thomas Brandl

City Hope **County** BARTHOLOMEW **State** IN

Comments As I interpret the rule, it only pertains to 'boats'. Some 'fishing tournaments' have been held on IN waters that did not use boats. I also oppose 'fishing tournaments' on specail regulation waters.

Comment Received 1/9/2014 12:14:57 PM

c) Response by the Department of Natural Resources

Lt. Colonel Steve Hunter submitted the following DNR response to the public comments:

As we discussed at the hearing the three public comments that were made are on sections that do not actually represent changes but only reorganization and combination of the two rules.

- 1) The 15 boat requirement to meet the definition of a fishing tournament has served as the threshold for several years and does not represent a change. I am not aware of any compelling reason to increase that threshold to twenty boats. If there were a consideration to do that I suspect there could be some objections.
- 2) Likewise the second comment about making it harder to conduct a bass tournament is not based on a change of the rule or a new rule.
- 3) The third comment objects to fishing tournaments that do not use boats and wants those included in the permitting process. A tournament of that type could be considered an event on public water if the organizer desired or expected exclusive use of a portion of the waterway and adjacent public land. Again this does not represent a change. It is only brought out as a clarification with the better definition.

**3. HEARING OFFICER ANALYSIS AND RECOMMENDATION REGARDING
FINAL ADOPTION**

The two written comments presented during the public comment period for this rule change proposal, as well as the written public comment received in the prior comment period, were considered by the hearing officer. One comment states that the rule change will make it harder for operate a bass tournament. Another comment indicates a desire to increase the maximum number of boats in fishing tournaments to 20, rather than 15. Because the rule proposal effects a recodification of existing rules for clarity and ease of application, the proposed rules will not alter the ability to obtain authorization to conduct a bass tournament or the number of boats allowed in fishing tournaments. The single comment received in 2014 offered a general statement in opposition to fishing tournaments on special regulation waters. In addition, that comment also referenced fishing tournaments not conducted from boats. The rule proposal does not make substantive amendments relating to tournament fishing and therefore the requested revisions are beyond the scope of the rule as proposed. The hearing officer has determined that the comments received do not present a need to revise the proposed rule change.

The hearing officer observes that LSA recommended a variety of minor technical revisions. Certain of these revisions have been made at 312 IAC 5-3.5-2(b)(4), 312 IAC 5-3.5-3(a)(1) and 312 IAC 5-3.5-6(g)(2) and 312 IAC 5-3.5-10(g)(3) in the rule language included at Exhibit A, which is attached and incorporated by reference.

The hearing officer presents the rule proposal to add 312 IAC 5-2-12.5, 312 IAC 5-2-18.5 and 312 IAC 5-3.5-1 through 12, to amend 312 IAC 5-3-2 and 312 IAC 5-5-3; and repeal 312 IAC 2-4-1, 312 IAC 2-4-2, 312 IAC 2-4-3, 312 IAC 2-4-4, 312 IAC 2-4-5, 312 IAC 2-4-7, 312 IAC 2-4-7.5, 312 IAC 2-4-9, 312 IAC 2-4-9.5, 312 IAC 2-4-11, 312 IAC 2-4-12, 312 IAC 2-4-13 and 312 IAC 2-4-14, as revised at Exhibit A for final adoption.

Dated: June 25, 2015

Dawn A. Wilson
Hearing Officer

EXHIBIT A

TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule

LSA Document #14-515(F)

DIGEST

Adds 312 IAC 5-2-12.5 to define "fishing tournament". Adds 312 IAC 5-2-18.5 to define "major organized boating activity". Amends 312 IAC 5-3-2 governing boat races, water ski events, and major organized boating activities. Adds 312 IAC 5-3.5 to govern organized activities and tournaments on designated public waters. Amends 312 IAC 5-5-3 governing litter and other waste disposal from a boat. Repeals 312 IAC 2-4. Effective 30 days after filing with the Publisher.

312 IAC 2-4-1; 312 IAC 2-4-2; 312 IAC 2-4-3; 312 IAC 2-4-4; 312 IAC 2-4-5; 312 IAC 2-4-7; 312 IAC 2-4-7.5; 312 IAC 2-4-9; 312 IAC 2-4-9.5; 312 IAC 2-4-11; 312 IAC 2-4-12; 312 IAC 2-4-13; 312 IAC 2-4-14; 312 IAC 5-2-12.5; 312 IAC 5-2-18.5; 312 IAC 5-3-2; 312 IAC 5-3.5; 312 IAC 5-5-3

SECTION 1. 312 IAC 5-2-12.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 5-2-12.5 "Fishing tournament" defined

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 12.5. "Fishing tournament" means an activity involving fifteen (15) or more boats used for taking fish where:

- (1) persons compete for a trophy, citation, cash, or prize; or**
- (2) a fee is charged to participants.**

(Natural Resources Commission; 312 IAC 5-2-12.5)

SECTION 2. 312 IAC 5-2-18.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 5-2-18.5 "Major organized boating activity" defined

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 18.5. "Major organized boating activity" means an activity other than a boat race, fishing tournament, or water ski event that:

- (1) involves fifteen (15) or more boats as participants;**
- (2) involves fifty (50) or more boats as spectators;**
- (3) is conducted according to a prearranged schedule for a limited duration; or**
- (4) is reasonably expected to significantly disrupt boat traffic.**

(Natural Resources Commission; 312 IAC 5-2-18.5)

SECTION 3. 312 IAC 5-3-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-3-2 Site inspection by a conservation officer before issuance of a license for a boat race, water ski event, or major organized boating activity

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 2. (a) Upon the receipt of a license application, a conservation officer shall inspect the areas that would be affected by the event.

(b) The conservation officer shall consider the following factors in reviewing the permit application:

- (1) The density of water traffic on the public water.
- (2) The physical characteristics of the public water.
- (3) The proximity of the proposed event to land owned by a person other than the license applicant.
- (4) The kinds of boats that would be involved **or affected**.
- (5) Any other factors that are appropriate to at least one (1) of the following:
 - (A) Preventing the existence of unusual conditions or hazards.
 - (B) Promoting scientific fish, wildlife, or botanical resource management.
 - (C) Assisting in the protection of users.

(c) A written report of the inspection shall be submitted by the conservation officer to the division director, together with recommendations for approval, disapproval, or the placement of conditions on the license. (*Natural Resources Commission; 312 IAC 5-3-2; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3322, eff Oct 1, 2003; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA; readopted filed Jul 17, 2014, 3:46 p.m.: 20140813-IR-312140067RFA*)

SECTION 4. 312 IAC 5-3.5 IS ADDED TO READ AS FOLLOWS:

Rule 3.5. Organized Activities and Tournaments on Designated Public Waters; Administration

312 IAC 5-3.5-1 Applicability

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 1. (a) This rule applies to both of the following:

- (1) The process for designating any public water where organized activities and tournaments are regulated.**
- (2) The administration of organized activities and tournaments on waters designated under subdivision (1).**

(b) Exempted from this rule are each of the following:

- (1) A boat race.**
- (2) A water ski event.**
- (3) A major organized boating activity.**

(c) A person must not conduct or participate in a fishing tournament or other organized activity on a public water designated in this rule except under a license issued under this rule.

(d) The department's division of law enforcement shall administer this rule. *(Natural Resources Commission; 312 IAC 5-3.5-1)*

312 IAC 5-3.5-2 Petition to regulate the conduct of fishing tournaments or other organized activities on designated public waters

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14-33-1-1

Sec. 2. (a) The following persons may petition the commission to designate, by rule, a particular public water for regulation:

- (1) The county executive for the county where the public water is located. A petition under this subsection applies only to the portion of the public water located in that county. The county executives for adjoining counties may enter a joint petition.**
- (2) If a portion of a public water is located within a municipality, the executive for the municipality. A petition under this subsection applies only to the portion of the public water located in the municipality.**
- (3) A deputy director of the department.**

(b) A petition filed under subsection (a) must include the following:

- (1) The name and location of the public water to be regulated.**
- (2) The name, address, and telephone number of the petitioner.**
- (3) The periods when the public water would be regulated. These periods may be expressed in terms of months or beginning and ending days. Restrictions on activities regulated under this rule may be seasonally adjusted.**
- (4) Whether regulation would apply to fishing tournaments, other organized activities, or both fishing tournaments and other organized activities. If the regulation would apply to other organized activities, a description of the type of activities that would be regulated.**

(Natural Resources Commission; 312 IAC 5-3.5-2)

312 IAC 5-3.5-3 Notice of and response to petition

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 3. (a) Upon receipt of a completed petition under section 2 of this rule, the division of hearings of the commission shall cause:

- (1) a copy of the petition to be delivered to each deputy director of the department; and**
- (2) notice of the petition and a brief summary of its contents to be delivered to the legislative services agency for publication in the Indiana Register.**

(b) Within ninety (90) days after the receipt of a petition under subsection (a), the department shall review and tender written recommendations to the commission regarding preliminary adoption of a rule to implement the petition. A copy of the recommendations shall also be served upon the petitioner and any other person who requests in writing that the department provide a copy.

(c) In preparing the recommendations described in subsection (b), the department shall consult with the petitioner and any other interested person. The recommendations shall consider each of the following:

- (1) Fish, wildlife, or botanical resource management.**
- (2) The protection of users, including the following:**
 - (A) Limitations of the public water to safely accommodate boats.**

- (B) Limitations of facilities relative to vehicular access, pedestrian safety, parking, and the launching of boats.
- (3) The protection of private and public property.
- (4) Cultural resources.

(d) For an application to establish a license requirement on a public freshwater lake, the department shall consider limiting the total number of boats in an activity conducted between April 1 and September 30 and licensed under this rule or under 312 IAC 5-3.

(e) The maximum number established under subsection (d) governs any date on which the activity or a portion of the activity is conducted.

(f) If the department does not tender its written recommendations to the commission in a timely fashion as provided in subsection (b), the petitioner may move the commission to place the petition on its agenda at the next regular meeting. *(Natural Resources Commission; 312 IAC 5-3.5-3)*

312 IAC 5-3.5-4 Designation of regulated public water by rule

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 4-22; IC 14

Sec. 4. (a) The commission may approve the recommendations of the department under section 3(b) of this rule or may modify or reject those recommendations.

(b) If a petition results in preliminary adoption of a rule, the proposal shall be reviewed under IC 4-22. A public hearing on the proposal shall be conducted in the county where the public water to be regulated is located.

(c) The regulation of a fishing tournament or other organized activity becomes effective for a particular public water when a section under this rule designating that public water becomes effective under IC 4-22. *(Natural Resources Commission; 312 IAC 5-3.5-4)*

312 IAC 5-3.5-5 Advance date approval

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 5. (a) The department shall conduct an organizational meeting or meetings between October 1 and November 15 to establish dates for the following year on which fishing tournaments or other organized activities can be conducted. The department may apply any reasonable process in an organizational meeting, including holding a drawing, to reserve a date or dates for a scheduled event and to minimize user conflict. As a condition for participation in a drawing, an individual may be required to identify the organization that the individual represents. The department shall not approve more than one (1) scheduled event for an individual on the same waterway, if the events would be separated by fewer than fourteen (14) days.

(b) In addition to the establishment of dates under subsection (a), the department may establish a date for a tournament beyond the following year if an individual presents satisfactory evidence that a tournament would have national significance.

(c) An individual who receives a reserved date must submit a completed license application within thirty (30) days of notification and at least sixty (60) days before the scheduled event, whichever is earlier. Failure to submit a timely completed application releases the reservation.

(d) An individual is disqualified from participating in an organizational meeting unless the individual and the organization that the individual represents have paid any outstanding fee or cost established in section 10 of this rule. (*Natural Resources Commission; 312 IAC 5-3.5-5*)

312 IAC 5-3.5-6 License application

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 6. (a) An application for a license to conduct a fishing tournament or other organized activity must be completed on a department form at least sixty (60) days before the date of the proposed tournament.

(b) An applicant must be an individual who is:

- (1) at least eighteen (18) years of age; and**
- (2) a resident of Indiana.**

(c) The applicant must state one (1) of the following:

- (1) The terms of a reserved date obtained under section 5 of this rule.**
- (2) If a reserved date was not obtained under subdivision (1), the activity location and number of boats for which approval is sought. An application under this subdivision is subject to an application previously:**
 - (A) reserved under subdivision (1); or**
 - (B) delivered to the department under this subsection.**
- (3) If an applicant seeks approval for additional boats to participate in a scheduled event approved under subdivision (1) or (2), the number of boats to be added. An application under this subdivision is subject to an application previously submitted under this subsection.**

(d) The applicant must attach a copy of proposed standards that would govern the organized activity.

(e) The department shall not approve any license or amended license under this section that would authorize an organized activity to exceed the maximum limits applicable to a lake under sections 10 through 12 of this rule.

(f) The department shall condition any license to achieve at least one (1) of the following:

- (1) Prevention of unusual conditions or hazards.**
- (2) Promotion of scientific fish, wildlife, or botanical resource management.**
- (3) Assistance in the protection of users.**

(g) To accomplish the purposes described in subsection (f), the department may do the following:

- (1) Designate the following:**
 - (A) The starting time or ending time for an activity.**
 - (B) The time and location for the use of any public facilities.**
- (2) Spread starting times among license holders if more than one (1) license is approved for a particular waterway.**
- (3) Restrict portions of the waterway from use by the participants.**

(h) The department may require a nonrefundable application fee with the application. The director shall establish the amount of the fee within a range approved by the commission. (*Natural Resources Commission; 312 IAC 5-3.5-6*)

312 IAC 5-3.5-7 General duties of license holder

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 7. In addition to the terms of the license and the requirements otherwise set forth in this rule, a license holder must do the following:

- (1) At least fourteen (14) days before the scheduled event, deliver a list of officials who will be present during the event.**
- (2) Obtain permission from the department to use a zone or zones in the public water for:**
 - (A) mooring;**
 - (B) judging;**
 - (C) weigh-in;**
 - (D) starting; or**
 - (E) any other activities using public facilities.**
- (3) Upon the request of the department, meet with a designated authorized representative or representatives before a tournament or other organized activity begins.**
- (4) Remove equipment and refuse and otherwise restore zones used in connection with a fishing tournament or other organized activity to the condition that existed before the event as directed by the department.**
- (5) Provide officials needed to supervise participants and spectators.**
- (6) Require each participating boat to clearly display a logo, banner, or other visible item approved by the department to identify the tournament or other organized activity.**
- (7) Establish a starting location for the tournament or other organized activity within an idle speed zone.**
- (8) Refrain from and prohibit the sale of food, beverages, or supplies within the area of the activity unless approved in writing by the department and the owner of the area.**
- (9) Refrain from obstructing ingress, egress, or regress from private property.**
- (10) Ensure reasonable access to all persons to public use facilities, including swimming areas, mooring areas, navigational channels, and similar facilities. Limitations on the usage of facilities must include the following:**
 - (A) Except as provided in clause (B), vehicles and trailers of contestants must use not more than seventy-five percent (75%) of the ramp and parking facilities in the staging area of the tournament.**
 - (B) The owner of the staging area may, in writing, authorize more than the maximum allowed usage under clause (A). This clause does not apply to a fishing tournament that is subject to section 10 of this rule.**
- (11) Apply in a drawing held under section 5 of this rule for not more than one (1) scheduled event on the same waterway with starting dates separated by fewer than fourteen (14) days. A tournament scheduled for two (2) consecutive days is a single event. For a tournament administered by the division of law enforcement, an individual may apply for more than one (1) event on the same waterway, with starting dates separated by fewer than fourteen (14) days, if the individual is the agent for different organizations.**
- (12) Act in good faith to fully perform the event. An individual or organization that demonstrates a pattern of violations of this subdivision may be denied another license.**

(*Natural Resources Commission; 312 IAC 5-3.5-7*)

312 IAC 5-3.5-8 Reporting

Authority: IC 14-10-2-4; IC 14-15-7-3
Affected: IC 14

Sec. 8. (a) A license holder must report the results of the event on a form provided by the department within thirty (30) days of the completion of the event, including the following:

- (1) The number of boats and participants.**
- (2) The starting and ending times.**
- (3) The actual use of public facilities.**

(b) In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report by a specified date, on a department form, legible and accurate records of the following:

- (1) The tournament name.**
- (2) The name, address, and telephone number of the license holder.**
- (3) The tournament date or dates, including starting time and ending time.**
- (4) The target fish species.**
- (5) The name of any waterway fished.**
- (6) The number of boats and number of participants.**
- (7) Individual or team catch statistics for each species of fish taken, including the following:**
 - (A) The numbers and lengths of fish weighed-in.**
 - (B) The numbers and lengths of fish caught and released.**

(Natural Resources Commission; 312 IAC 5-3.5-8)

312 IAC 5-3.5-9 Sanctions and emergency relief

Authority: IC 14-10-2-4; IC 14-15-7-3
Affected: IC 4-21.5-3-8; IC 4-21.5-4; IC 14

Sec. 9. (a) The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to condition, suspend, or revoke the license of a person who violates a term of the license, this article, or another law. In addition, the department may seek an order in the complaint to disqualify the person from receiving another license under this rule, for a period not to exceed three (3) years, if the person:

- (1) conducts an activity, for which a license is required under this rule, without having such a license in effect; or**
- (2) violates a term of a license issued under this rule.**

(b) The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to condition, suspend, or revoke a license if warranted by changed circumstances at the staging area or on the public water that might reasonably be anticipated to endanger public health, safety, or the environment.

(c) In addition to the penalties prescribed by subsections (a) and (b), a person who violates this rule commits a Class C infraction. *(Natural Resources Commission; 312 IAC 5-3.5-9)*

312 IAC 5-3.5-10 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3
Affected: IC 5-14-3; IC 14

Sec. 10. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of boats that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamonie	Mississinewa	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	75	100	30	178	50	100
April	175	75	75	100	30	178	50	60
May	175	75	75	100	20	178	28	50
June	175	30	30	75	20	125	28	50
July	175	30	30	75	20	125	28	50
August	175	30	30	75	20	125	28	50
September	175	75	75	100	20	178	28	60
October	175	75	75	100	30	178	50	100
November	100	75	75	100	30	178	50	100

(c) A boat used to administer a tournament is excluded in determining the number of participating boats.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

(e) Notwithstanding subsection (b), a fishing tournament on Monroe Lake, from October 15 through the end of February, is restricted to a maximum of one hundred (100) participating boats.

(f) At least thirty (30) days before the scheduled event, a license holder must file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

- (1) One hundred thousand dollars (\$100,000) for all damages to property for a single occurrence.
- (2) One hundred thousand dollars (\$100,000) for injury or death of one (1) person in a single occurrence.
- (3) Three hundred thousand dollars (\$300,000) for injury to or death of multiple persons in a single occurrence.

(g) Attached to the application for each property, the applicant must deliver a cash bond or other security approved by the department in the amount of one hundred fifty dollars (\$150). Bond may be forfeited for any of the following reasons:

- (1) Failure to:
 - (A) pay the user fee within the prescribed time frame;
 - (B) cancel the event within thirty (30) days from the date the application was submitted; or
 - (C) comply with section 8 of this rule.
- (2) Restoration of the mooring judge's or spectators' area.
- (3) Reimburse the department for costs of supervision, maintenance, and labor.
- (4) To collect any other unpaid fees or costs that are due, including expenses incurred in the collection of the unpaid fees.

(h) Within fourteen (14) days after a tournament, the license holder must provide to the department a user fee equal to the greater of:

- (1) eighty percent (80%) of the number of boats listed on the license; or
- (2) the number of boats participating in the tournament.

If the user fee under this subsection is greater than the amount of the bond, the organization is also responsible for the difference.

(i) The amount of the fee shall be established by the director within a range of fees for this purpose approved by the commission. The director may waive the user fee if the:

- (1) tournament is held for charity where all of the profits are given to that charity; and
- (2) waiver request is:
 - (A) made in writing; and
 - (B) submitted with the application.

(j) The director may require insurance in addition to what is set forth in subsection (f) if the director determines a fishing tournament poses an unusual risk of liability to the department.

(k) A license holder shall:

- (1) indemnify;
- (2) defend;
- (3) exculpate; and
- (4) hold harmless;

the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity.

(l) The department may deny a license application or may revoke a license issued under this section if any fee or cost provided under this section is delinquent. Upon the satisfaction of any delinquencies, an individual may apply for a new license. (*Natural Resources Commission; 312 IAC 5-3.5-10*)

312 IAC 5-3.5-11 Limitations on organized boating activities at Lake Wawasee and Syracuse Lake, Kosciusko County

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 11. (a) This section governs organized boating activities on Lake Wawasee and Syracuse Lake in Kosciusko County.

(b) On the combined waters of Lake Wawasee and Syracuse Lake, the maximum number of boats that can lawfully participate in a fishing tournament on a Saturday or a Sunday is as follows:

- (1) One hundred twenty-five (125) for the following periods:
 - (A) From April 1 until the weekend including Memorial Day.
 - (B) After the weekend including Labor Day until September 15.
- (2) One hundred (100) from the weekend including Memorial Day through the weekend including Labor Day.

(c) For a tournament subject to subsection (b) that is scheduled to continue past midnight, the number of participating boats may be attributed either to Saturday or to Sunday so as to facilitate the ability of an organized boating activity to use the lake. (*Natural Resources Commission; 312 IAC 5-3.5-11*)

312 IAC 5-3.5-12 Limitations on organized boating activities at Sylvan Lake, Noble County

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 12. (a) This section governs organized boating activities on Sylvan Lake, Noble County.

(b) On the waters of Sylvan Lake, the maximum number of boats that can lawfully participate in a fishing tournament is as follows:

(1) One (1) tournament each day, consisting of no more than sixty-five (65) boats, for the period of April 1 through April 30.

(2) One (1) tournament each day, consisting of no more than fifty (50) boats, for the period of May 1 through September 30.

(c) For a tournament subject to subsection (b) that is scheduled to continue past midnight, the number of participating boats may be attributed to either day so as to facilitate the ability of an organized boating activity to use the lake. (*Natural Resources Commission; 312 IAC 5-3.5-12*)

SECTION 5. 312 IAC 5-5-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-5-3 Litter and other waste disposal from a boat

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-15-7-3

Affected: IC 14

Sec. 3. (a) Except as provided in subsection (b), a person must not dispose of litter or other waste from a boat maintained or operated upon public water.

(b) A person who maintains or operates a boat upon Lake Michigan or another waterway described in 40 CFR 1700 must not violate 40 CFR 1700 in treatment or disposal of litter or other waste from a boat.

(c) ~~The following definitions apply throughout~~ As used in this section,

(1) ~~"Litter" includes the following:~~

~~(A) Bottles.~~

~~(B) Glass.~~

~~(C) Crockery.~~

~~(D) Cans.~~

~~(E) Scrap metal.~~

~~(F) Junk.~~

~~(G) Paper.~~

~~(H) Garbage.~~

~~(I) Rubbish.~~

~~(J) Plastic.~~

~~(K) Similar refuse.~~

(2) "other waste" includes the following:

~~(A)~~ (1) Filth.

~~(B)~~ (2) A putrid substance.

~~(C)~~ (3) An unwholesome substance.

~~(D)~~ (4) Contents of a catch basin.

~~(E)~~ (5) Contents of a grease trap.

~~(F)~~ (6) Any other graywater.

(Natural Resources Commission; 312 IAC 5-5-3; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2372, eff Jan 1, 2002; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA; readopted filed Jul 17, 2014, 3:46 p.m.: 20140813-IR-312140067RFA)

SECTION 6. THE FOLLOWING ARE REPEALED: 312 IAC 2-4-1; 312 IAC 2-4-2; 312 IAC 2-4-3; 312 IAC 2-4-4; 312 IAC 2-4-5; 312 IAC 2-4-7; 312 IAC 2-4-7.5; 312 IAC 2-4-9; 312 IAC 2-4-9.5; 312 IAC 2-4-11; 312 IAC 2-4-12; 312 IAC 2-4-13; 312 IAC 2-4-14.